

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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BENJAMIN ESPINOSA,

Plaintiff,

v.

FILSON, et al.,

Defendants.

Case No. 3:18-CV-0298-MMD-CLB

REPORT AND RECOMMENDATION OF
UNITED STATES MAGISTRATE
JUDGE

This Report and Recommendation is made to the Honorable Miranda M. Du, United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and the Local Rules of Practice, LR IB 1-4. Before the court is plaintiff's motion to voluntarily dismiss defendants Michelle Clay and AW T. Sandoval (ECF No. 95). No opposition was filed.

Pursuant to Fed. R. Civ. P. 41(2) after an answer is filed, an action may be dismissed at the plaintiff's request by a court order. In his motion, plaintiff states that he has found no evidence to support a violation of his civil rights by Michelle Clay and AW T. Sandoval and seeks to voluntarily dismiss these two defendants. (ECF No. 95).

No opposition was filed. Local Rule 7-2(d) provides that the failure of an opposing party to file points and authorities in response to any motion . . . constitutes a consent to the granting of the motion.

Based on the foregoing and for good cause appearing, the court recommends that plaintiff's motion to voluntarily dismiss Michelle Clay and AW T. Sandoval (ECF No. 95) be granted.

1 The parties are advised:

2 1. Pursuant to 28 U.S.C. § 636(b)(1)(c) and Rule IB 3-2 of the Local Rules of
3 Practice, the parties may file specific written objections to this Report and
4 Recommendation within fourteen days of receipt. These objections should be entitled
5 "Objections to Magistrate Judge's Report and Recommendation" and should be
6 accompanied by points and authorities for consideration by the District Court.

7 2. This Report and Recommendation is not an appealable order and any notice
8 of appeal pursuant to Fed. R. App. P. 4(a)(1) should not be filed until entry of the District
9 Court's judgment.

10 **RECOMMENDATION**

11 IT IS THEREFORE RECOMMENDED that plaintiff's motion to voluntarily dismiss
12 defendants Michelle Clay and AW T. Sandoval (ECF No. 95) be **GRANTED** and Michelle
13 Clay and AW T. Sandoval be **DISMISSED without prejudice**.

14 DATED: January 16, 2020.

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17 UNITED STATES MAGISTRATE JUDGE
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